

28-51-100. Definitions. In addition to the terms defined in K.S.A. 65-5101 and amendments thereto, each of the following terms, as used in this article of the department's regulations, shall have the meaning specified in this regulation:

(a) ~~"Administrator" means either a person who has training and experience in health services administration and at least one year of supervisory or administrative experience in health care, or a qualified health professional~~ an individual who is appointed by the governing body and is directly responsible for the management and day-to-day operations of a home health agency.

(b)(1) ~~"Admission note" means a dated notation that is written by a professional member of the health team document after the initial assessment of a client or patient and that is used to develop the plan of care for the client or patient and that documents specifies the following:~~

(A) The relevant diagnoses;

(B) the client's or patient's health history;

(C) environmental, safety, and social factors of the client's or patient's home;

(D) the client's or patient's nutritional requirements, medications, and treatments;

(E) the client's or patient's functional status and abilities; and

(F) the client's or patient's physical and mental levels of functioning.

(2) (A) For home health services, the admission note shall be completed by a registered nurse or physical therapist.

(B) For supportive care services, the admission note shall be completed by a manager.

(3) For HCBS through the home- and community-based services (HCBS) waiver program, the admission note shall be completed by a registered nurse or physical therapist.

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DIVISION OF THE BUDGET

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AUG 19 2020

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

(c) "Branch office" means a location or site from which a home health agency provides services within a portion of the total geographic area served by the parent agency. The branch office shall be part of the home health agency and shall be located close to share administration, supervision, and services in a manner that renders it unnecessary for the branch to independently meet the conditions of licensure as a home health agency. Each branch office shall be within 100 miles of the parent agency. "After-hours" means the times, including weekends, holidays, and evenings, when the parent office is closed or no staff members are present.

(d) "Alternate administrator" means an individual appointed by the governing body or administrator who is responsible for the management and day-to-day operations of the home health agency in the absence of the administrator.

(e) "Attendant care services" has the meaning specified in K.S.A. 65-6201, and amendments thereto.

(f) "Attendant care worker" means an employee of a home health agency who provides attendant care services.

(g) "Bylaws" and "operating agreement" means mean a set of rules adopted by a home health agency for governing the agency's operation governing a home health agency's operation that is adopted by a licensee. Bylaws or operating agreements establish the structure of the governing body and the home health agency and specify how business at the home health agency shall be conducted.

(h) "Change of ownership" means the sale or transfer of a home health agency, including any sale or transfer of 50 percent or more of the stock of a corporation.

APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

APPROVED

AUG 19 2020

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

(i) "Client" means an individual receiving only supportive care services from a home health agency.

(j) "Client record" means documentation including all of the following, for each client:

(1) An admission note;

(2) the plan of care;

(3) any progress notes;

(4) any record of communication concerning the client's status;

(5) any supportive care services provided to the client; and

(6) the discharge summary report.

(k) "Clinical manager" and "director of nursing" mean the individual responsible for the nursing services provided by a home health agency that provides home health services. If the administrator or alternate administrator is not a physician or registered nurse, the licensee shall employ, as the clinical manager or director of nursing, a registered nurse licensed in Kansas who has at least two years of nursing experience.

(l) "Clinical nurse specialist" means an individual licensed by the state board of nursing as an advanced practice registered nurse in the role of clinical nurse specialist.

(e) (m) "Clinical record" means a legal document containing facts that meet the following criteria means documentation including all the following, for each patient:

(1) Provide a basis for planning and implementing the patient's care program An admission note;

(2) indicate the patient's status and response to treatment plan of care;

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DIVISION OF THE BUDGET

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DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

(3) ~~serve as a record of communication for the professional groups responsible for the patient's care~~ any progress notes; and

(4) ~~serve as a repository of data that can be used to review and evaluate the care provided~~ any record of communication concerning the patient's status or treatment; and

(5) the discharge summary report.

(n) "Department" means department of health and environment.

(f) (o) ~~"Dietitian" means a person~~ an individual who is licensed by the Kansas department of health and environment as a dietitian KDADS. A nutritionist shall not be utilized in place of a dietitian.

(g) (p)(1) ~~"Direct supervision" means that the supervisor is on the facility premises and is accessible for one-on-one consultation, instruction, and assistance, as needed~~ supervision that includes the following:

(A) Periodically providing supervision of each staff member while the staff member is providing home health services, HCBS, or supportive care services and obtaining feedback from clients or patients regarding the home health services, HCBS, or supportive care services provided by the staff member; and

(B) directly overseeing activities as they occur and providing constant direction, feedback, guidance, and assistance.

(2) Each individual providing direct supervision shall be on-call and shall be accessible for one-on-one consultation, training and instruction, and assistance, as needed.

(h) (q) ~~"Discharge summary report" means a concise statement, signed by a qualified~~

APPROVED

AUG 02 2021

DIVISION OF THE BUDGET

APPROVED

AUG 03 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

~~health professional, reflecting the care, treatment, and response of the patient in accordance with the patient's plan of care and the final disposition at the time of discharge~~ concise written statement that meets one of the following conditions:

(1) For home health services and HCBS, the discharge summary report is signed by a qualified health professional and reflects the patient's treatment and response in accordance with the patient's plan of care and the final disposition of the patient at the time of discharge from the home health agency.

(2) For supportive care services, the discharge summary report is signed by a manager and reflects the treatment and response of the client in accordance with the client's plan of care and the final disposition of the client at the time of discharge.

(r) "Governing body" means the individual or individuals who comprise the legal administrative structure of a home health agency and direct how business shall be conducted.

(s) "HCBS" has the meaning specified in K.A.R. 129-6-34.

(i) "Home health aide" means an individual who has a home health aide certificate issued by the licensing agency as specified in K.A.R. 28-51-113.

(j) (t) "Home health aide trainee" means an individual who meets either of the following conditions:

(1) The individual has completed a 90-hour nurse aide course prescribed in as specified in K.A.R. 28-39-165.

(2) The individual's training has been endorsed as specified in K.A.R. 28-51-115.

(u) "In-operation," when used to describe the status of a home health agency, means that

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AUG 02 2021

APPROVED

AUG 03 2021

APPROVED

SEP 17 2021

the home health agency has provided home health services, HCBS, or supportive care services to at least five patients or clients in the past 12-month period and to at least one patient or client in the latest three-month period.

(v) "Inspection" means either an investigation in response to a complaint or an on-site survey of a home health agency by the department.

(w) "KDADS" means Kansas department for aging and disability services.

(k) (x) "Licensed nursing experience" means experience employment as a registered nurse or licensed practical nurse.

(y) "Licensed practical nurse" means an individual who is licensed by the state board of nursing as a licensed practical nurse.

(l) "Licensing agency" means the Kansas department of health and environment.

(z) "Licensee" means a person who has been issued a license by the department to operate a home health agency.

(aa) "Manager" means an individual who is employed by a home health agency that provides supportive care services and who meets the following requirements:

(1) Provides supervision and is available to supportive care workers for consultation at all times that supportive care services are provided; and

(2) has at least one year of experience providing home health services, HCBS, or supportive care services.

(bb) "Medication administration" means the provision of assistance to a patient in the ingestion, application, or inhalation of a medication according to the directions of either of the

following:

(1) The attending physician, nurse practitioner, or clinical nurse specialist; or  
(2) an individual who is licensed by the state board of healing arts as a physician's  
assistant and is authorized to provide assistance to a patient without direction or supervision in  
the scope of the individual's license.

(cc) "Nurse practitioner" means an individual licensed by the state board of nursing as an  
advanced practice registered nurse in the role of nurse practitioner.

(m) (dd) "Occupational therapist" means a person an individual who is licensed with by  
the Kansas state board of healing arts as an occupational therapist.

(n) (ee) "Occupational therapy assistant" means a person an individual who is licensed  
with by the Kansas state board of healing arts as an occupational therapy assistant.

(ff) "Office hours" means the times of the day and days of the week that a parent office  
is open and staffed to serve the public.

(gg) "On-call" means being available for consultation to the staff whenever home health  
services, HCBS, or supportive care services are provided.

(e) (hh) "Parent home health agency office" means a home health agency that develops  
and maintains administrative control of subunits or branch offices, or both the main location or  
site from which a home health agency operates. Each parent office shall have a local street  
address with a local telephone number and shall be continuously staffed during posted and  
advertised office hours. The office hours shall be conspicuously posted for public view. No post  
office box shall be used as the location of a parent office.

APPROVED

AUG 02 2021

DIVISION OF THE BUDGET

APPROVED

AUG 03 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

(ii) "Patient" means an individual receiving home health services or HCBS from a home health agency.

(jj) "Person" means an individual, association, partnership, corporation, government, government subdivision, or other entity.

(kk) "Personal care" means attendant care services, as defined in K.S.A. 65-6201 and amendments thereto, provided to an individual to enable the individual to reside in that individual's home.

(~~l~~) (ll) "Physical therapist" means ~~a person~~ an individual who is licensed with by the Kansas state board of healing arts as a physical therapist.

(~~l~~) (mm) "Physical therapist assistant" means ~~a person~~ an individual who is certified by the Kansas state board of healing arts as a physical therapist assistant.

(~~n~~) (nn) "Physician" means ~~a person licensed in Kansas or an adjoining state to practice medicine and surgery~~ an individual licensed to practice medicine and surgery by the state board of healing arts or by an adjoining state under the interstate medical licensure compact (IMLC).

(oo) "Physician assistant" means an individual licensed by the state board of healing arts as a physician assistant.

(~~s~~) (pp) "Plan of care" means a ~~plan~~ written document developed and used by a home health agency specifying the needs of each prospective client or patient to assist the licensee in determining which home health services, supportive care services, or HCBS will be provided to the prospective client or patient.

(1) For home health services, a registered nurse or physical therapist shall develop each

APPROVED

AUG 02 2021

DIVISION OF THE BUDGET

APPROVED

AUG 03 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL



plan of care based on the patient's diagnosis and the assessment of the patient's immediate and long-range needs and resources. The plan of care ~~is~~ shall be established in consultation with the ~~home health services team~~ other qualified health professionals, as needed. If the plan of care includes ~~procedures and~~ home health services that, according to professional practice acts, require a physician's authorization, the plan of care shall be signed by a physician and shall be renewed every ~~62~~ 60 days.

(2) For supportive care services, the plan of care shall be developed by a manager and shall be based on each client's status and the assessment of the client's immediate and long-range needs and resources.

(3) For HCBS, the plan of care shall be developed as specified by the HCBS waiver program requirements. The licensee shall reassess each patient's plan of care at least every 60 days to determine whether the HCBS are still adequate.

(qq) "Plan of correction" means a written document developed by a licensee and submitted to the department to address noncompliance found during an inspection.

(†) (rr)(1) "Progress note" means a dated, written notation documenting a visit provided by a staff member of the home health services team summarizing agency that summarizes the facts about the a client's or patient's care and treatment, response during a given period of time, and functional status during that visit. Each progress note shall include the following:

(A) The name of the individual who provided the treatment;

(B) the date and time when the treatment was provided;

(C) the treatment that was received by the client or patient;

APPROVED

AUG 09 2021

DIVISION OF THE BUDGET

APPROVED

AUG 13 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

(D) the client's or patient's response; and

(E) the date when the next visit will occur and the treatment that will be provided.

(2) Each progress note shall be clear and specific and shall indicate the client's or patient's functional status and abilities compared to other visits. The client or patient shall sign the progress note to confirm receipt of the treatment.

~~(u)~~ (ss) "Qualified health professional" means a physician, a registered nurse, a physical therapist, an occupational therapist, a respiratory therapist, a speech therapist, a dietitian, or a social worker.

~~(v)~~ (tt) "Registered nurse" means ~~a person~~ an individual who is licensed by the Kansas state board of nursing as a registered professional nurse or an individual who has a multistate license as a registered nurse as specified in K.S.A. 65-1166, and amendments thereto. A registered nurse shall be responsible for the direction, oversight, and management of the nursing staff, including licensed practical nurses and home health aides.

~~(w)~~ (uu) "Respiratory therapist" means ~~a person~~ an individual who is licensed by the Kansas state board of healing arts as a respiratory therapist.

(vv) "Service area" means a geographic region within a 200-mile radius of a home health agency's parent office in which the home health agency is allowed to provide home health services, HCBS, or supportive care services to clients or patients.

(ww) "Set up" means to arrange medication for later medication administration according to instructions from a pharmacy, the individual prescribing the medication, or a licensed nurse.

(xx) "Significant health event" means any occurrence that affects the ability of an

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AUG 02 2021

APPROVED

AUG 03 2021

APPROVED

SEP 17 2021

employee to perform the employee's job duties.

(x) (yy) "Simulated laboratory" means an enclosed area that is in a school, adult care home, or other facility and that is similar to a home setting for training purposes. In a simulated laboratory, home health aide trainees practice and demonstrate basic home health aide skills while an instructor observes and evaluates the home health aide trainees.

(zz)(1) "Skilled care services" means a type of home health services. This term shall include the following:

(A) Wound care;

(B) the use of medical supplies, including drugs and biologicals prescribed by a physician;

(C) in-home transfusions; and

(D) home health services provided by any qualified health professional.

(2) This term shall not include the delivery of either durable medical equipment or medical supplies.

(y) (aaa) "Social worker" means ~~a person~~ an individual who is licensed by the Kansas behavioral sciences regulatory board as a social worker.

(z) (bbb) "Speech therapist" means ~~a person~~ an individual who is licensed by the ~~Kansas department of health and environment~~ KDADS as a speech-language pathologist.

(aa) "Summary report" means ~~a concise statement, signed by a qualified health professional, that reflects the care and treatment given and the response by the patient.~~

(bb) (ccc) "Supervision" means the authoritative procedural guidance that is given by a

APPROVED

AUG 02 2021

DIVISION OF THE BUDGET

APPROVED

AUG 03 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

~~qualified health professional. This term shall include initial direction and periodic inspection of the act of accomplishing the function or activity to a staff member.~~

(ddd) "Telehealth" means the use of information and communication technology while a patient is at one site and a qualified health professional is at another site so that clinical parameters and other clinical data can be sent to qualified health professionals overseeing the health care provided to the patient. This term is also known as "telemedicine," "telemonitoring," or "remote monitoring."

(eee) "Total unique patient and client count" means the number of separately identifiable patients and clients that a home health agency served in a licensure year. Each home health agency that did not operate in the previous year shall estimate the number of separately identifiable patients and clients that will be served in the one-year period following the date the application for a license is submitted. The total unique patient and client count shall not duplicate any patient or client who was provided home health services, HCBS, or supportive care services on separate occasions. (Authorized by and implementing K.S.A. 65-5109; effective, T-86-23, July 1, 1985; amended May 1, 1987; amended Feb. 28, 1994; amended Dec. 29, 2003; amended Oct. 27, 2006; amended P-\_\_\_\_\_.)

APPROVED

AUG 02 2021

APPROVED

AUG 03 2021

APPROVED

SEP 17 2021

DIVISION OF THE BUDGET

DEPT. OF ADMINISTRATION

ATTORNEY GENERAL

28-51-101. Licensing procedure. (a) Initial license application and fees.

(1) Each application for an initial home health agency license shall be filed on forms provided by the licensing agency before the agency begins treating patients. A license shall remain in effect unless suspended or revoked by the licensing agency. person applying for an initial home health agency license shall submit the following to the department:

(A) A completed application on forms provided by the department;

(B) one of following nonrefundable fees based on the total unique patient and client count:

(i) \$500.00 for each person that indicates on the application that the person intends to provide home health services or HCBS with a total unique patient and client count of less than 100;

(ii) \$750.00 for each person that indicates on the application that the person intends to provide home health services or HCBS with a total unique patient and client count of 100 or more;

(iii) \$250.00 for each person that indicates on the application that the person intends to provide only supportive care services with a total unique patient and client count of less than 100; or

(iv) \$500.00 for each person that indicates on the application that the person intends to provide only supportive care services with a total unique patient and client count of 100 or more; and

(C) a copy of the policies and procedures applicable to the home health agency as required by K.A.R. 28-51-103, 28-51-104, 28-51-117, and 28-51-118.

APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

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APPROVED

AUG 19 2020

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

(2) No person shall provide home health services, HCBS, or supportive care services before the person is issued a license.

(b) Annual ~~report~~ license renewal application and fees. Each licensed ~~agency~~ shall file an annual report and annual fee upon uniform dates and forms provided by the licensing agency licensee renewing a license shall file the following at least 30 days before the expiration of the license:

(1) A completed renewal application on forms provided by the department; and

(2) one of the following fees based on the total unique patient and client count:

(A) \$350.00 for each licensee that submits a renewal application for a license to provide home health services or HCBS and that indicates on the renewal application that the licensee had a total unique patient and client count of less than 100;

(B) \$600.00 for each licensee that submits a renewal application for a license to provide home health services or HCBS and that indicates on the renewal application that the licensee had a total unique patient and client count of 100 or more;

(C) \$100.00 for each licensee that submits a renewal application for a license to provide only supportive care services and that indicates on the renewal application that the licensee had a total unique patient and client count of less than 100; or

(D) \$350.00 for each licensee that submits a renewal application for a license to provide only supportive care services and that indicates on the renewal application that the licensee had a total unique patient and client count of 100 or more.

(c) License issuance or renewal. A license shall be issued or renewed if the following

APPROVED

SEP 24 2020

DIVISION OF THE BUDGET

APPROVED

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DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

requirements are met:

(1) The applicant shall be in substantial compliance with this article of the department's regulations.

(2) The applicant shall submit an acceptable plan of correction for any deficiencies cited during an inspection.

(d) Terms of license.

(1) Each license shall remain in effect for one year unless suspended or revoked by the department.

(2) Each home health agency shall offer only the home health services, HCBS, or supportive care services specified on the home health agency's initial application or renewal application.

(e) Change of administrator or alternate administrator. Each licensee shall notify the licensing agency department, in writing, within five days following the effective date of a change of administrator or alternate administrator. The notification shall include the name, address, and qualifications of the new administrator or alternate administrator.

(d) (f) New services Notifications. Each licensee shall notify the licensing agency ~~whenever it begins offering a new service covered under these regulations~~ department before establishing a new location of the parent office and before changing the home health agency's telephone number.

(e) (g) Change of address or name. Each licensee shall notify the licensing agency department, in writing, within five days following the change of address or name of the home

APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

APPROVED

AUG 19 2020

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

health agency. The home health agency shall forward the previously issued license certificate to the licensing agency department with a request for an amended license certificate reflecting the new address or new name.

~~(f)~~ (h) Change of ownership. Each home health agency licensee involved in a change of ownership shall comply with the provisions of K.S.A. 65-5104(e), and amendments thereto. Each new owner of a home health agency shall file an application for a license with the department upon the effective date of the sale, transfer, or change in corporate status. Any new owner may request a temporary operating permit to allow continued operations of the home health agency for a limited period while the owner is applying for a license.

(i) Inspections. The administrator or alternate administrator shall provide all clinical records or client records and all administrative records, including all complaints, meeting minutes, quality assurance, and annual program review documents, to the department surveyor within 30 minutes of a request from the surveyor. The time for producing the documents may be extended at the secretary's discretion. The licensee shall provide accurate and truthful information to the department during inspections.

~~(g) Plan of correction. A license shall be granted if:~~

- ~~(1) The applicant is found to be in substantial compliance with these regulations; and~~
- ~~(2) the applicant submits an acceptable plan for correcting any deficiencies cited.~~

~~(h) Annual statistical report. Each home health agency shall submit an annual statistical report.~~

(j) Staffing. If home health services are provided during after-hours, each licensee shall

APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

APPROVED

AUG 19 2020

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL



establish a policy for staff coverage during after-hours, holidays, and weekends, including a schedule for staff that are on-call.

(k) Closure.

(1) Each licensee shall notify the department in writing at least 30 days before the permanent closure of the home health agency. The notice shall include the reason for the closure, the date the home health agency is closing, the location of active and inactive patient or client records, and the name and address of the custodian of the records.

(2) If the home health agency closes, the licensee shall make provision for the retention of clinical records or client records.

(3) If the home health agency closes with current patients or clients, the licensee shall notify each patient or client, and any guardian of the patient or client, within 30 days before the closure and develop an effective discharge or transfer plan in coordination with the needs outlined in the patient's or client's plan of care. The licensee shall transfer a copy of the client record or clinical record with the client or patient to the receiving home health agency to ensure continuity of home health services, HCBS, or supportive care services to the client or patient.

(4) The licensee shall mail the license to the department at the end of the day that home health services, HCBS, or supportive care services are discontinued.

(5) A licensee shall not operate the home health agency after the closing date provided to the department.

(l) In-operation status. Each licensee shall maintain in-operation status to be eligible for license renewal.

APPROVED

AUG 17 2020

APPROVED

AUG 19 2020

APPROVED

SEP 17 2021

(m) Service area. Each licensee shall provide home health services, HCBS, or supportive care services only to patients or clients in the service area of the home health agency.

(n) Service area exceptions.

(1) Any licensee that provides home health services may request an exception to the licensee's service area restriction by applying for an exception on forms provided by the department, which shall include the following:

(A) A statement from the licensee that there is a need for a specific home health service in an area outside the licensee's service area; and

(B) a statement from the licensee that the geographic area where the specific home health service is to be provided is not served by another home health agency that provides the specific home health service.

(2) If an exception is granted, the exception shall be effective for one year. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5103, 65-5104, 65-5105, and 65-5106; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994; amended P-\_\_\_\_\_.)

APPROVED	APPROVED	APPROVED
AUG 02 2021	AUG 03 2021	SEP 17 2021
DIVISION OF THE BUDGET	DEPT. OF ADMINISTRATION	ATTORNEY GENERAL

28-51-102. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5103; effective, T-86-23,  
July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994; revoked P-\_\_\_\_\_.)

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JUL 13 2020

DIVISION OF THE BUDGET

APPROVED

JUL 15 2020

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL

28-51-103. Organization and administration. (a) Governing body. Each home health agency shall have a governing body ~~or a clearly defined body~~ having legal authority to operate the home health agency. The governing body shall meet the following requirements:

(1) Have bylaws ~~or their equivalent~~ or an operating agreement, which shall be renewed annually;

(2) employ a qualified administrator as ~~defined in K.A.R. 28-51-100(a)~~ and alternate administrator;

(3) adopt, revise, and approve policies and procedures for the operation and administration of the home health agency as needed;

(4) provide the name and address of each officer, director, and owner of the home health agency to the ~~licensing agency~~ department;

(5) disclose each corporate ownership ~~interests~~ interest of ~~10~~ five percent or more to the ~~licensing agency~~ department; and

(6) disclose past home health agency ownership or management, including the name of the home health agency, its location, and current status, to the ~~licensing agency~~ department.

(b) Administrator. ~~The administrator shall be responsible for the management of the agency to the extent authority is delegated by the governing body. A qualified person shall be designated to act in the absence of the administrator. The~~

(1) Each administrator shall have at least the following responsibilities:

(1) (A) Organize and direct the home health agency's ongoing functions;

(2) (B) act as a liaison between the governing body and staff;

APPROVED

SEP 03 2020

DIVISION OF THE BUDGET

APPROVED

SEP 09 2020

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL

- (3) (C) employ qualified personnel in accordance with job descriptions;
  - (4) (D) provide written personnel policies and procedures and job descriptions that are made available to all employees;
  - (5) (E) maintain appropriate personnel records, administrative records, and all policies and procedures of the home health agency;
  - (6) (F) provide orientation for new staff, regularly scheduled ~~inservice~~ in-service education programs, and opportunities for continuing education of the staff;
  - (7) (G) ensure the completion, maintenance, and submission of ~~such~~ reports and records as required by the ~~secretary of health and environment~~ department; and
  - (8) (H) ensure that each patient or client admitted to the home health agency receives, in writing, the ~~patient's~~ patients' and clients' bill of rights listed at specified in K.A.R. 28-51-111.
- (2) The administrator shall reside within the service area.
- (3) For each home health agency that provides home health services or HCBS, the administrator shall meet the following requirements:
- (A) Be at least 21 years of age;
  - (B) have a baccalaureate degree; and
  - (C) meet one of the following requirements:
    - (i) Have at least one year of experience as an administrator;
    - (ii) be a physician;
    - (iii) be a registered nurse; or
    - (iv) be a qualified health professional, other than a physician or a registered nurse,

APPROVED

SEP 03 2020

DIVISION OF THE BUDGET

APPROVED

SEP 09 2020

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL

currently licensed in Kansas who has at least two years of experience in direct health care delivery and at least one year of supervisory experience in health care.

(4) For each home health agency providing only supportive care services, the administrator shall meet the following requirements:

(A) Be at least 21 years of age;

(B) have at least one year of experience as an employee of a home health agency or in a related health care service; and

(C) have one of the following:

(i) A baccalaureate degree;

(ii) an associate's degree; or

(iii) a certificate from a home health administrator course approved by the department.

(c) Alternate administrator. The alternate administrator shall meet all the requirements of an administrator. An alternate administrator shall be available at any time the administrator is not available and be responsible for all duties of the administrator in the administrator's absence.

(d) Personnel records. Current personnel records shall be maintained for each employee.

The personnel records for ~~an~~ each employee shall include the following:

(1) The title of ~~that~~ the employee's position and a description of the duties and functions assigned to that position;

(2) ~~the~~ a signed and dated job description that includes the qualifications for the position;

(3) evidence of licensure or certification if required. Each degree shall be supported by official transcripts. Licensure or certification within Kansas or authorization to practice in

APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

APPROVED

AUG 19 2020

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL

Kansas for any qualified health professional, certified nurse aide, home health aide, licensed practical nurse, occupational therapy assistant, or physical therapy assistant shall be provided upon request;

(4) performance evaluations made within six months of employment and annually thereafter;

(5) documentation of reference checks and a personal interview prior to employment for each employee before employment; and

(6) evidence of good general health and a negative tuberculin skin test or chest X-ray upon employment. Subsequent periodic health assessments or physical examinations shall be given in accordance with agency policies: a health record, including the following:

(A) A self-reported health history;

(B) a current health assessment performed by a physician, nurse practitioner, clinical nurse specialist, physician assistant, or registered nurse certifying that the employee is physically able to perform job functions as listed in the employee's job description before working with clients or patients; and

(C) a current two-step tuberculosis skin test following the U.S. centers for disease control and prevention testing guidelines for healthcare workers taken before working with clients or patients;

(7) a subsequent periodic health assessment performed by a physician, nurse practitioner, clinical nurse specialist, physician assistant, or registered nurse in accordance with home health agency policies and procedures and a subsequent health assessment at least every two years or

APPROVED

JAN 25 2021

APPROVED

JAN 29 2021

APPROVED

JUN 17 2021

following a significant health event;

(8) a copy of the eligibility determination request submitted to the department for aging and disability services regarding adult and juvenile convictions and adjudications pursuant to K.S.A. 65-5117, and amendments thereto; and

(9) results of the state and national criminal history record check pursuant to K.S.A. 65-5117, and amendments thereto, and the findings of any state or national registry, as defined in regulations adopted by the secretary of the department for aging and disability services.

(e) Provisional employment. Any home health agency may hire an applicant for provisional employment on a one-time basis for 60 calendar days pending the results from the department for aging and disability services regarding adult and juvenile convictions and adjudications. Each applicant provisionally hired by a home health agency shall be supervised by an employee who has completed all training required by federal regulations, department regulations, and the home health agency's policies and procedures.

(d) (f) Personnel under hourly or per visit contracts. There shall be a written contract between the home health agency and personnel any individuals or businesses who contract with the home health agency under hourly or per visit arrangements. The contract shall include the following provisions:

(1) A statement that patients are accepted for care only or clients will be provided home health services, HCBS, and supportive care services by the primary home health agency;

(2) a description of the home health services, HCBS, and supportive care services to be provided by each individual or business;

APPROVED

JAN 25 2021

DIVISION OF THE BUDGET

APPROVED

JAN 29 2021

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL



(3) a statement that each ~~employee~~ individual or business shall conform to all applicable agency policies and procedures, including those related to qualifications;

(4) a statement that ~~the employee~~ each individual or business shall be responsible for participating in the development of plans of care;

(5) a description of the manner in which home health services, HCBS, and supportive care services will provided by each individual or business shall be controlled, coordinated, and evaluated by the ~~primary~~ home health agency;

(6) the procedures for submitting ~~clinical and~~ progress notes, scheduling patient care, and conducting periodic patient evaluations; and

(7) the procedures for determining charges and reimbursement to each individual or business.

~~(e) (g) Abuse, neglect, or exploitation. Each employee of the agency shall be responsible for reporting in accordance with agency policies and K.S.A. 39-1430 et. seq., and amendments thereto, any evidence of abuse, neglect, or exploitation of any patient served by the agency.~~  
Each home health agency shall meet the following requirements:

(1) Provide in-service training recognizing the signs and symptoms of abuse, neglect, or exploitation to home health agency employees and contracted personnel at the time of hire or contract and annually thereafter and document all training provided in each personnel file;

(2) develop written policies and procedures that include the reporting process for reporting abuse, neglect, and exploitation; and

(3) immediately report if there is reasonable cause to believe that a patient or client is

APPROVED

JAN 25 2021

APPROVED

JAN 29 2021

APPROVED

JUN 17 2021

being or has been abused, neglected, or exploited or is in need of protective services in  
accordance with home health agency policies and procedures pursuant to K.S.A. 39-1431, and  
amendments thereto. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5104;  
effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994; amended  
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APPROVED

JAN 25 2021

APPROVED

JAN 29 2021

APPROVED

JUN 17 2021

28-51-104. Home health services, HCBS, and supportive care services. (a) ~~General provisions.~~  
Each home health agency shall ~~accept~~ provide home health services, HCBS, and supportive care services to a patient or client only when the home health agency reasonably expects that the patient's medical, rehabilitation, and social needs or the client's needs can be met adequately by the home health agency in the patient's or client's place of residence.

(b) ~~Provision of services.~~

(1) ~~Patient care shall follow a written plan which is periodically reviewed by the supervising nurses or other appropriate health professionals.~~

(2) ~~All personnel providing services to the same patient shall maintain a liaison with the supervising professional to assure that their efforts effectively complement one another and support the objectives as outlined in the plan of care.~~

(3) ~~For each patient receiving professional services, including the services of a registered nurse, physical therapy, occupational therapy, speech therapy, and dietary consultation, a written summary report shall be sent to the attending physician every 62 days. Services under arrangement with another agency shall be subject to a written contract conforming to these requirements.~~

(4) ~~A registered nurse shall be available or on call to the staff during all hours that nursing or home health aide services are provided~~ Each home health agency shall be limited to the home health services, HCBS, and supportive care services specified by the home health agency's initial application or renewal application.

(c) ~~Supervision of home health aide services.~~

(1) ~~A physician, a registered nurse, or an appropriate qualified health professional shall~~

APPROVED

JUL 13 2020

DIVISION OF THE BUDGET

APPROVED

AUG 19 2020

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

~~visit each patient's home every two weeks to supervise home health aide services when skilled nursing or other therapy services, or both are also being furnished to a patient.~~

~~(2) This visit may be made less often if only home health aide services are being furnished to a patient and this is documented in the clinical record. A supervisory visit shall then be made at least every 60 days. Each licensee issued a license that indicated on the licensee's initial application or renewal application that the licensee intends to provide home health services shall provide the following for each patient:~~

~~(A) An order from the patient's physician, nurse practitioner, clinical nurse specialist, or physician assistant;~~

~~(B) an assessment of the patient by a registered nurse or physical therapist if only physical therapy will be provided;~~

~~(C) a plan of care for the patient developed by the registered nurse or physical therapist based upon the patient's needs;~~

~~(D) training of appropriate staff to deliver the plan of care in accordance with the home health agency regulations in this article of the department's regulations;~~

~~(E) written policies and procedures regarding the provision of skilled care services and, if offered, separate written policies for supportive care services or HCBS;~~

~~(F) a written plan of care for each patient that is reviewed at least every 60 days by a registered nurse or physical therapist as required by the home health agency regulations in this article of the department's regulations;~~

~~(G) a clinical record for each patient that includes progress notes for the patient;~~

APPROVED

JAN 25 2021

APPROVED

JAN 29 2021

APPROVED

SEP 17 2021

(H) a policy indicating who can administer medications;

(I) policies and procedures indicating that all personnel providing services to the same patient shall maintain communication with the registered nurse or physical therapist employed by the home health agency to ensure that all home health services support the plan of care;

(J) a registered nurse, who shall be available or on-call to the staff to serve patients during all hours that home health services are provided;

(K) a visit by a physician, a registered nurse, or a qualified health professional to each patient's home every two weeks to supervise home health services if nursing or therapy services, or both, are being provided to the patient. This visit may be made less often if only personal care is provided to a patient and documented in the clinical record. If only personal care is provided, a supervisory visit shall be made at least every 60 days; and

(L) written instructions for the home health services to be provided to each patient prepared by a qualified health professional.

(2) Each licensee issued a license that indicated on the licensee's initial application or renewal application that the licensee intends to provide HCBS shall provide the following for each patient:

(A) The plan of care;

(B) training of appropriate staff to deliver the plan of care in accordance with HCBS guidelines and home health agency regulations in this article of the department's regulations;

(C) written policies and procedures regarding the provision of HCBS and, if offered, separate written policies and procedures for supportive care services;

APPROVED

JAN 25 2021

DIVISION OF THE BUDGET

APPROVED

JAN 29 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

(D) documentation of the HCBS provided to the patient, which shall become part of the clinical record;

(E) policies and procedures indicating who can provide medication administration;

(F) policies and procedures indicating that all personnel providing HCBS to the same patient shall maintain communication to ensure that all HCBS support the plan of care;

(G) a registered nurse, who shall be available or on-call to the staff to serve patients during all hours that personal care is provided; and

(H) a physician, registered nurse, or other qualified health professional, who shall visit the patient's home every 60 days if personal care is provided.

(3) Each licensee issued a license that indicated on the licensee's initial application or renewal application that the licensee intends to provide supportive care services shall provide the following for each client:

(A) Written policies and procedures that indicate admission criteria for the client consistent with supportive care services, as defined in K.S.A. 65-5101 and amendments thereto, and the requirements of this regulation;

(B) written policies and procedures describing the appropriate scope of practice for the supportive care worker consistent with supportive care services, as defined in K.S.A. 65-5101 and amendments thereto, and the requirements of this regulation;

(C) an assessment of the client by a manager used to develop a plan of care for the client based upon the client's needs;

APPROVED

AUG 02 2021

DIVISION OF THE BUDGET DEPT. OF ADMINISTRATION

APPROVED

AUG 03 2021

APPROVED

SEP 17 2021

ATTORNEY GENERAL

(D) training of managers and supportive care workers to deliver the plan of care in accordance with the home health agency regulations in this article of the department's regulations, including competency in the following:

(i) Communication skills, with special focus on communicating with clients with hearing deficits, dementia, or other special needs;

(ii) observation, reporting, and documentation of client status and documenting supportive care services provided to the client;

(iii) basic infection control procedures;

(iv) basic elements of body functioning and changes in body function and when to report changes in bodily functions to the manager;

(v) maintenance of a clean, safe, and healthy environment;

(vi) recognizing emergencies and knowledge of home health agency emergency procedures;

(vii) recognizing physical, emotional, and developmental needs of the clients served by the home health agency;

(viii) working with clients, including respect of the client and the client's privacy and property; and

(ix) appropriate and safe techniques in personal hygiene and grooming;

(E) written policies and procedures regarding the provision of supportive care services;

(F) a plan of care for the client, which shall be reviewed by the manager at least every 60 days;

APPROVED

JAN 25 2021

DIVISION OF THE BUDGET

APPROVED

JAN 29 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

(G) progress notes for the client, which shall be kept as part of the client record;

(H) policies and procedures indicating that medications shall not be set up by supportive care workers or allow supportive care workers to provide medication administration;

(I) policies and procedures indicating that all personnel providing supportive care services to the same client shall maintain communication with the manager to ensure that all supportive care services promote the plan of care;

(J) a manager, who shall be on-call to assist staff providing supportive care services for clients; and

(K) a visit by the manager to each client every three months to provide supervision to each supportive care worker.

(d) Each licensee shall maintain the following documents, which shall be available to a department surveyor upon request:

(1) The documents maintained by each home health agency providing home health services or HCBS shall include the following:

(A) A clinical record for each patient; and

(B) personnel records for each employee that include all training received, qualifications, performance evaluations, and evidence of a background check clearance.

(2) The documents maintained by each home health agency providing supportive care services shall include the following:

(A) A client record for each client; and

(B) personnel records for each employee that include all training received, qualifications,

APPROVED

JAN 25 2021

APPROVED

JAN 29 2021

APPROVED

SEP 17 2021



performance evaluations, and evidence of a background check clearance.

(e) Each licensee shall maintain a copy of each policy and the policies and procedures required by this article of the department's regulations. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5104; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994; amended P-\_\_\_\_\_.)

APPROVED

JAN 25 2021

DIVISION OF THE BUDGET

APPROVED

JAN 29 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

28-51-105. Nursing services. (a) ~~Nursing services shall be provided under the supervision of a registered nurse and in accordance with a plan of care.~~ Each licensee of a home health agency that provides nursing services shall ensure the following:

(1) Supervision of nursing services by a registered nurse or clinical manager;

(2) an initial evaluation by a registered nurse of each patient within 48 hours of referral to determine the immediate home health services needed by the patient;

(3) the reporting to a physician, nurse practitioner, clinical nurse specialist, or physician assistant of any concerns or change in a patient's status; and

(4) the updating of each patient's plan of care by a registered nurse if there is a concern or change in the patient's status.

(b) ~~A registered nurse shall make an initial evaluation visit to each patient, shall regularly reevaluate the patient's nursing needs, and shall initiate the patient's plan of care and make any necessary revisions~~ Each licensee issued a license that indicated on the licensee's initial application or renewal application that the licensee intends to provide home health services shall provide nursing services in accordance with each patient's plan of care with nursing services ordered by a physician, nurse practitioner, clinical nurse specialist, or physician assistant.

(c) Each clinical manager shall coordinate each patient's plan of care and ensure that all other home health agency personnel who are actively involved in the patient's plan of care are kept informed of the patient's status.

(d) If drugs are being administered by a home health agency, the licensee shall have a policy consistent with K.S.A. 65-1625 et seq., and amendments thereto, regarding how the drugs will be administered, monitored, secured, and transported from the pharmacy to the patient.

APPROVED

AUG 02 2021

APPROVED

AUG 03 2021

APPROVED

SEP 17 2021

(e) A person that applies for a license to provide only supportive care services shall not provide nursing services. (Authorized by K.S.A. 1984 Supp. 65-5109, ~~as amended by 1985 H.B. 2468~~; implementing K.S.A. 1984 Supp. 65-5104, ~~as amended by 1985 H.B. 2468~~; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended P-\_\_\_\_\_.)

APPROVED

JAN 25 2021

APPROVED

JAN 29 2021

APPROVED

SEP 17 2021

DIVISION OF THE BUDGET

DEPT. OF ADMINISTRATION

ATTORNEY GENERAL

28-51-106. Therapy services. (a) Therapy services offered directly by a licensee's employees or under a contractual arrangement with the licensee shall be provided by the following:

- (1) A physical therapist;
- (2) a physical therapist assistant functioning under the supervision of a physical therapist;
- (3) an occupational therapist;
- (4) an occupational ~~therapist~~ therapy assistant functioning under the supervision of an occupational therapist;
- (5) a speech therapist; or
- (6) a respiratory therapist.

(b) ~~The~~ Each physical therapist, occupational therapist, speech therapist, or respiratory therapist shall perform the following:

- (1) Make an evaluation visit to each patient requiring therapy services; ;
- (2) ~~shall regularly reevaluate the each patient's therapy needs on a monthly basis; ;~~ and
- (3) ~~shall~~ initiate the patient's therapy plan of care and make any necessary revisions to the plan of care.

(c) Any licensee that does not provide nursing services and provides only therapy services to a patient may utilize a physical therapist, instead of a registered nurse, to conduct the initial patient evaluation and establish and update the plan of care. If nursing services are added after the plan of care is established, a registered nurse shall conduct a patient evaluation and revise the plan of care before nursing services are provided. (Authorized by K.S.A. 1984-Supp. 65-5109, as amended by 1985 H.B. 2468; implementing K.S.A. 1984-Supp. 65-5104, as

APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

APPROVED

AUG 19 2020

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL

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APPROVED

JUL 13 2020

DIVISION OF THE BUDGET

APPROVED

AUG 19 2020

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL

28-51-107. Social services. (a) Social services offered by a licensee's employees or under a contractual arrangement with the licensee shall be given provided by a social worker according to the patient's plan of care.

(b) The social worker shall participate in the development of the patient's plan of care.  
(Authorized by K.S.A. 1984 Supp. 65-5109, ~~as amended by 1985 H.B. 2468~~; implementing K.S.A. 1984 Supp. 65-5104, ~~as amended by 1985 H.B. 2468~~; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended P-\_\_\_\_\_.)

APPROVED

JUL 13 2020

DIVISION OF THE BUDGET

APPROVED

JUL 17 2020

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL

28-51-109. Nutritional and dietary consultation. (a) Each licensee providing nutritional and dietary consultation services offered directly by the licensee's employees or under a contractual arrangement with the licensee shall be given in accordance with provide nutritional and dietary consultation services according to the written plan of care.

(b) ~~If nutritional services are provided, a~~ Each dietitian shall evaluate the nutritional needs of each patient requiring such nutritional and dietary services and shall participate in developing the plan of care for that patient. (Authorized by K.S.A. 1984 Supp. 65-5109, as amended by 1985 H.B. 2468; implementing K.S.A. 1984 Supp. 65-5104, as amended by 1985 H.B. 2468; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended

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APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

APPROVED

AUG 19 2020

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL

28-51-110. Clinical records and client records. (a) General provisions. A clinical record or client record containing pertinent past and current findings shall be maintained in accordance with accepted professional standards for each patient or client receiving home health services.

(b) Content of clinical record. Each patient's clinical record shall contain at least the following:

- (1) The patient's plan of care;
- (2) the name of the patient's physician, nurse practitioner, clinical nurse specialist, or physician assistant;
- (3) drug, dietary, treatment, and activity physician orders;
- (4) signed and dated admission notes and clinical notes that are written the day the home health service is rendered and incorporated at least weekly;
- (5) ~~copies of summary reports sent to the physician~~ documentation of home health services provided, date and time in and out, and a confirmation that home health services were provided;
- (6) ~~copies of progress notes; and~~ documentation that HCBS were performed according to policies and guidelines for HCBS, if the home health agency provides HCBS;
- (7) ~~the discharge summary~~ a copy of all progress notes;
- (8) the date of each on-site visit for supervision required by K.A.R. 28-51-118; and
- (9) the discharge summary report.

(c) Content of client record. Each client record shall contain at least the following:

- (1) The plan of care;
- (2) the name of the client's physician, nurse practitioner, clinical nurse specialist, or

APPROVED

JAN 25 2021

DIVISION OF THE BUDGET

APPROVED

JAN 29 2021

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL



physician assistant;

(3) physician orders for drugs, diet, treatment, and activity;

(4) signed and dated admission notes;

(5) documentation of supportive care services provided, the date and time the provider of supportive care services checked in and out, and a confirmation that supportive care services were provided;

(6) a copy of progress notes;

(7) the date of each on-site visit for supervision required by K.A.R. 28-51-117; and

(8) the discharge summary report.

(d) Retention. Each clinical records record and each client record shall be retained in a retrievable form for at least five years after the date of the last discharge of the patient or client. If the ~~home health agency~~ licensee discontinues operation, provision shall be made for retention of records.

(~~d~~) (e) Safeguard against loss or unauthorized use. Written policies and procedures shall be developed regarding the use and removal of records documents from the patient record or client record and the conditions for release of information. The patient's, client's, or guardian's written consent shall be required for release of information not required by law. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5104; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994; amended P-\_\_\_\_\_.)

APPROVED

JAN 25 2021

DIVISION OF THE BUDGET

APPROVED

JAN 29 2021

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL

28-51-111. Patients' and clients' bill of rights. (a) ~~The Each~~ governing body shall establish a bill of rights that ~~will~~ shall be equally applicable to all patients and clients. ~~At a minimum,~~ The following provisions shall be included in the patients' and clients' bill of rights: :

(a) ~~(1) Each patient shall have~~ The right to choose ~~care providers~~ health care professionals and the right to communicate with those ~~providers~~ health care professionals; :

(b) ~~(2) Each patient shall have~~ the right to participate in the planning of the patient's or client's plan of care and the right to appropriate instruction and education regarding the plan of care; :

(c) ~~Each patient shall have a right to request information about the patient's diagnosis, prognosis, and treatment, including alternatives to care and risks involved, in terms that the patient and the patient's family can readily understand so that they can give their informed consent.~~

(d) ~~Each patient shall have the right to refuse home health care and to be informed of possible health consequences of this action.~~

(e) ~~(3) Each patient shall have the right to care~~ home health services, HCBS, and supportive care services that ~~is given~~ are provided without discrimination as to race, color, creed, sex, or national origin; :

(f) ~~(4) Each patient shall be admitted for service~~ the right to receive home health services, HCBS, or supportive care services only if the agency licensee has the ability to provide safe, professional care at the level of intensity needed; :

(g) ~~(5) Each patient shall have the right to reasonable continuity of care~~; :

(h) ~~Each patient shall have the right to be advised in advance of the disciplines that will~~

APPROVED

AUG 02 2021

DIVISION OF THE BUDGET

APPROVED

AUG 03 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

~~furnish care and the frequency of visits proposed to be furnished.~~

(i) ~~(6) Each patient shall have the right to be advised in advance of any change in the plan of care before the change is made. ;~~

(j) ~~(7) Each patient shall have the right to confidentiality of all clinical records and client records, communications, and personal information. ;~~

(k) ~~(8) Each patient shall have the right to review all health records pertaining to them the patient or client unless it is medically contraindicated in the clinical record or client record by the physician, nurse practitioner, clinical nurse specialist, or physician assistant;~~

(l) ~~(9) Each patient denied service for any reason shall have the right to be referred elsewhere. the right to be referred to another home health agency if the patient or client is denied home health services, HCBS, or supportive care services for any reason;~~

(m) ~~(10) Each patient shall have the right to voice grievances and suggest changes in home health services, HCBS, and supportive care services or the staff providing the home health services, HCBS, and supportive care services, without fear of reprisal or discrimination. ;~~

(n) ~~(11) Each patient shall have the right to be fully informed of home health agency policies and charges for home health services, HCBS, and supportive care services, including eligibility for, and the extent of payment from third-party reimbursement sources, prior to before receiving care. Each patient and client shall be informed of the extent to which payment may could be required from the patient or client. ;~~

(o) ~~(12) Each patient shall have the right to be free from verbal, physical, and psychological abuse and to be treated with dignity. ;~~

APPROVED

AUG 09 2021

APPROVED

AUG 13 2021

APPROVED

SEP 17 2021

~~(p) (13) Each patient shall have the right to have his or her the patient's or client's~~  
property treated with respect; ;

~~(q) (14) Each patient shall have the right to be advised in writing of the availability of the~~  
licensing agency's department's toll-free complaint telephone number; ; and

(15) the right to be free from the use of restraints in the home setting.

(b) Each governing body shall establish a bill of rights that shall be applicable to all  
patients, in addition to the rights specified in subsection (a). The following provisions shall be  
included in the patients' bill of rights:

(1) The right to request information about the diagnosis, prognosis, and treatment,  
including alternatives to treatment and risks involved, in terms that the patient and the patient's  
family can readily understand in order to give informed consent;

(2) the right to refuse home health services or HCBS and the right to be informed of the  
possible health consequences of any refusal; and

(3) the right to be advised in advance of the home health services or HCBS that will be  
provided and the frequency of visits proposed to be provided. (Authorized by K.S.A. 65-5109;  
implementing K.S.A. 65-5104; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended  
Feb. 28, 1994; amended P-\_\_\_\_\_.)

APPROVED

AUG 09 2021

DIVISION OF THE BUDGET

APPROVED

AUG 13 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

28-51-112. Home health aide training ~~program~~; state test. (a) Each individual employed or contracted by a home health agency who is not licensed or registered to provide home health services but who assists, under supervision, in the provision of home health services ~~and who provides related health care to patients~~ shall meet the training requirements specified in K.A.R. 28-51-113 through ~~K.A.R. 28-51-116~~ 28-51-115.

(b) ~~This regulation shall not apply to any individual providing only attendant care services as defined in K.S.A. 65-6201, and amendments thereto~~ Upon completing the requirements specified in K.A.R. 28-51-113 through 28-51-115, each home health aide shall be required to pass a state test as specified in K.A.R. 28-51-116. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5115; effective, T-86-23, July 1, 1985; effective May 1, 1986; amended Feb. 28, 1994; amended Oct. 27, 2006; amended P-\_\_\_\_\_.)

APPROVED

SEP 03 2020

DIVISION OF THE BUDGET

APPROVED

SEP 09 2020

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL

28-51-113. Home health aide ~~training program~~ qualifications. (a) Each home health aide candidate shall be a Kansas-certified nurse aide in good standing on the public nurse aide registry and complete a 20-hour home health aide course approved by the ~~licensing agency~~ department.

(b) Upon completing a home health aide course as specified in subsection (a) ~~of this regulation~~, each home health aide shall be required to pass a state test as specified in K.A.R. 28-51-116.

(c) Each ~~person~~ individual who completes the requirements specified in subsections (a) and (b) ~~of this regulation~~ shall be ~~issued a home health aide certificate~~ certified by the ~~licensing agency~~ department and shall be listed on the public nurse aide registry.

(d)(1) Each home health aide trainee shall be allowed to provide home health ~~aide~~ services to ~~clients~~ patients of the home health agency under the supervision of a registered nurse.

(2) Each home health aide trainee who completes an approved 20-hour course shall be ~~issued a home health aide certificate~~ certified by the ~~licensing agency~~ department, upon completion of the requirements specified in subsections (a) and (b) ~~of this regulation~~, within 90 days from the beginning date of the initial course in order to continue employment providing home health ~~aide~~ services. Home health aide trainee status shall be for one 90-day period only.

(3) Any Kansas-certified nurse aide who is eligible for employment and who is enrolled in a 20-hour home health aide course may work for a home health agency as a home health aide trainee. The home health agency's registered nurse shall retain in the home health aide trainee's personnel file a ~~department-approved form~~ approved by the department attesting that the home health aide trainee has met the minimum competencies for a home health aide trainee.

APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

APPROVED

OCT 02 2020

DEPT. OF ADMINISTRATION

APPROVED

NOV 04 2021

ATTORNEY GENERAL

(e) Each 20-hour home health aide course shall be administered according to the following criteria:

(1) Any ~~person~~ home health aide issued a nurse aide certificate by the ~~licensing agency~~ department or enrolled in a 90-hour nurse aide course as specified in K.A.R. 28-39-165 may enroll in a 20-hour home health aide course after being prescreened and tested for reading comprehension at an eighth-grade level.

(2) Each 20-hour home health aide course shall be sponsored by one of the following:

(A) A home health agency;

(B) a postsecondary school under the jurisdiction of the state board of regents; or

(C) a postsecondary school accredited by the north central association of colleges and schools.

(3) A ~~home health agency~~ licensee shall not sponsor or provide clinical instruction for a 20-hour home health aide course if that ~~home health agency licensee~~ meets any of the conditions listed in 42 C.F.R. 484.36(a)(2)(i), as in effect on October 1, ~~2001~~ 2011, which is hereby adopted by reference.

(4) Each 20-hour course shall be prepared and administered in accordance with the guidelines established by the ~~licensing agency~~ department in the "Kansas certified home health aide guidelines (20 hours)," dated ~~July 1, 2005~~ September 29, 2021, and the "Kansas home health aide sponsor and instructor manual," ~~excluding the appendices, dated July 1, 2005~~ July 26, 2021, which are hereby adopted by reference.

(f) No correspondence course shall be accepted as a 20-hour home health aide course.

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OCT 27 2021

NOV 04 2021

OCT 26 2021

DEPT. OF ADMINISTRATION

ATTORNEY GENERAL

(g) Distance-learning educational offerings and computer-based educational offerings shall meet the requirements specified in subsection (e) ~~of this regulation~~. (Authorized by K.S.A. 65-5109; implementing K.S.A. 65-5115; effective Dec. 29, 2003; amended Oct. 27, 2006; amended P-\_\_\_\_\_.)

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JUL 13 2020

DIVISION OF THE BUDGET

APPROVED

OCT 02 2020

DEPT. OF ADMINISTRATION

APPROVED

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ATTORNEY GENERAL



28-51-117. Supportive care services. (a) Admission criteria. Each person that applies to provide supportive care services shall have a written policy that addresses admission criteria consistent with the definition of "supportive care services" in K.S.A. 65-5101, and amendments thereto, and the requirements of this regulation.

(b) Scope of practice and training. Each licensee providing supportive care services shall have written policies and procedures describing the appropriate scope of practice for a supportive care worker consistent with the following:

(1) The definition of "supportive care services" in K.S.A. 65-5101, and amendments thereto;

(2) the requirements of this regulation; and

(3) the training required for each supportive care worker to provide the necessary supportive care services to a client.

(c) Competency. Each licensee shall ensure that each supportive care worker demonstrates competency before providing supportive care services to a client without the manager being present and shall reevaluate each supportive care worker on an annual basis in the following subject areas:

(1) Communication skills with special focus on communicating with clients with a hearing deficit, dementia, or other special needs;

(2) observation, reporting, and documentation of client status and the supportive care service provided;

(3) basic infection control procedures;

(4) basic elements of body functioning and changes in body function that shall be

APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

APPROVED

AUG 21 2020

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

reported to the supportive care worker's supervisor;

(5) maintenance of a clean, safe, and healthy environment;

(6) recognizing emergencies and knowledge of the home health agency's emergency procedures;

(7) respecting the client and the client's privacy and property;

(8) knowledge of the clients' bill of rights specified in K.A.R. 28-51-111;

(9) appropriate and safe techniques in personal hygiene and grooming; and

(10) appropriate use of any equipment needed for the provision of supportive care services.

(d) Ongoing training. Ongoing training shall be provided to each manager and supportive care worker annually or more often as needed to adequately provide the supportive care services needed by the clients served by the home health agency. Ongoing training shall include training on the supportive care services provided and the equipment used by the home health agency. The subject matter and date of the ongoing training provided shall be documented in each manager's and supportive care worker's file.

(e) Supervision of supportive care workers. Each licensee providing supportive care services shall supervise each supportive care worker as follows:

(1) Employ a manager who is available to a supportive care worker for questions at all times; and

(2) provide on-site supervision of each supportive care worker, at least every three months, including an assessment of client satisfaction of the supportive care services provided

APPROVED

AUG 02 2021

DIVISION OF THE BUDGET

APPROVED

AUG 03 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

and the supportive care worker's adherence to the plan of care.

(f) Written assignments.

(1) Written assignments and instructions for supportive care workers shall be prepared by a manager based on the plan of care.

(2) Written assignments and instructions for supportive care workers shall include the following:

(A) The procedures to be used for meeting the client's needs;

(B) specification of when the supportive care worker is required to report to the supportive care worker's supervisor; and

(C) a requirement for the supportive care worker to document the supportive care services provided during each visit.

(3) Each manager shall review the written assignments and instructions every three months or more frequently as changes in the client's status and needs occur.

(g) Assigned duties. Each licensee shall include the following requirements in written policies and procedures for use by a supportive care worker:

(1) Assisting with medication.

(A) Any supportive care worker may assist a client with medication only if the medications have been preselected by the client, a family member, a nurse, or a pharmacist and are stored in containers other than the prescription bottles, including medication reminder containers. Each medication reminder container shall be clearly marked with day and time of dosage. Assistance shall be limited to the following:

APPROVED

AUG 02 2021

DIVISION OF THE BUDGET

APPROVED

AUG 03 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

- (i) Inquiries whether medications were taken;
- (ii) verbal prompting to take medications;
- (iii) handing the appropriately marked medication reminder container to the client; and
- (iv) opening the appropriately marked medication reminder container for the client if the client is physically unable to open the container.

(B) Paragraph (g)(1)(A) shall apply to all prescription and nonprescription medications. Each supportive care worker shall report immediately to the manager whenever medications are taken too often, not taken often enough, or not taken at the correct time as marked in the medication reminder container. Supportive care workers and other employees of a home health agency providing supportive care services shall not participate in medication administration.

(2) Skin care. Each supportive care worker performing skin care assistance shall provide skin care assistance only if the client's skin is unbroken and the client does not have active chronic skin problems. A supportive care worker shall not apply medication. Supportive care workers and other employees of a home health agency providing supportive care services shall not provide wound care, including dressing changes and application of medications.

(3) Ambulation. Any supportive care worker may assist a client with ambulation who can balance and bear weight if a qualified health professional determines that the client is independent with an assistive device.

(4) Bathing. Any supportive care worker may assist a client with bathing. If a client has wounds requiring changes to bandages before, during, or after bathing, the client shall be in the care of a home health agency licensed to provide home health services.

APPROVED

AUG 02 2021

DIVISION OF THE BUDGET

APPROVED

AUG 03 2021

DEPT. OF ADMINISTRATION

APPROVED

SEP 17 2021

ATTORNEY GENERAL

(5) Dressing. Any supportive care worker may assist a client with dressing, including assistance with ordinary clothing and application of over-the-counter support stockings that can be purchased without a physician's prescription. A supportive care worker shall not assist with the application of an elastic bandage wrap or antiembolic or pressure stockings that can be purchased only with a prescription.

(6) Exercise. Any supportive care worker may assist a client with exercise. The assistance shall not include assistance with exercise prescribed by a qualified health professional, including a physical therapist or occupational therapist, and shall be limited to assistance with normal bodily movement as tolerated by the client. Any supportive care worker may provide encouragement to the client to comply with a prescribed exercise program.

(7) Feeding. Any supportive care worker may assist a client with feeding if the client can independently chew and swallow without difficulty and maintain an upright position. Assistance by a supportive care worker shall not include syringe feedings, tube feedings, and intravenous nutrition. If a client is at a high risk for choking or aspiration, the client shall be in the care of a home health agency licensed to provide home health services.

(8) Hair care. Any supportive care worker may assist a client with the maintenance and appearance of the client's hair. Hair care may include shampooing with a shampoo that does not require a physician's prescription and drying, combing, and styling hair.

(9) Mouth care. Any supportive care worker may assist with and perform mouth care for a client, including denture care and basic oral hygiene. Mouth care for clients who are unconscious, have difficulty swallowing, or are at risk for choking and aspiration or have had

APPROVED

AUG 02 2021

APPROVED

AUG 03 2021

APPROVED

SEP 17 2021

DIVISION OF THE BUDGET

DEPT. OF ADMINISTRATION

ATTORNEY GENERAL

recent surgical procedures to the mouth shall be performed by a home health agency licensed to provide home health services.

(10) Nail care. Any supportive care worker may assist a client with nail care, including soaking nails, pushing back cuticles without utensils, and filing nails. Nail trimming for clients shall be performed only by a supportive care worker of a home health agency that indicated in the home health agency's initial application or renewal application that it intends to provide home health services.

(11) Positioning. Any supportive care worker may assist a client with positioning if the client is able to indicate to the supportive care worker verbally, nonverbally, or through others, whenever the client's position needs to be changed. Positioning shall not be performed if skin care is required in conjunction with the positioning. Positioning may include simple alignment in a bed, wheelchair, or other furniture.

(12) Shaving. Any supportive care worker may assist a client with shaving only with an electric or a safety razor.

(13) Toileting. Any supportive care worker may perform the following:

- (A) Assisting a client to and from the bathroom;
- (B) providing assistance with bedpans, urinals, and commodes;
- (C) assisting with personal hygiene or changing clothing and pads of any kind used for the care of incontinence;
- (D) emptying urinary collection devices, including catheter bags. The insertion and removal of catheters and care of external catheters shall be considered a skilled care service and

**APPROVED**

**AUG 02 2021**

**APPROVED**

**AUG 03 2021**

**APPROVED**

**SEP 17 2021**

shall not be performed by a supportive care worker; and

(E) emptying ostomy bags. A supportive care worker shall not insert suppositories or administer an enema.

(14) Transfers. Any supportive care worker may assist a client with transfers as provided by written assignments if the client has sufficient balance and strength to stand and pivot and assist with the transfer. Any supportive care worker may assist a family member with transferring the client. A supportive care worker shall not perform assistance with a transfer if the client is unable to assist with the transfer.

Adaptive and safety equipment may be used in a transfer if the client and the supportive care worker are fully trained in the use of the equipment and the client, client's family member, or guardian can direct the transfer step-by-step. Adaptive and safety equipment may include wheelchairs, tub seats, and grab bars. A gait belt may be used in a transfer as a safety device for the supportive care worker if the supportive care worker has been properly trained in the use of a gait belt.

Any supportive care worker with training and demonstrated competency may assist a client in a transfer involving a lift device.

(15) Respiratory care. Respiratory care shall be considered a skilled care service and shall not be performed by a supportive care worker.

(16) Masks and oxygen flow. Any supportive care worker may temporarily remove and replace a cannula or mask from a client's face for the purposes of shaving or washing the client's face. Any supportive care worker may set a client's oxygen flow according to written

**APPROVED**

**APPROVED**

**APPROVED**

**AUG 03 2021**

**SEP 17 2021**

**AUG 02 2021**

**DEPT. OF ADMINISTRATION ATTORNEY GENERAL**

**DIVISION OF THE BUDGET**

instructions when changing tanks, if the supportive care worker has been specifically  
trained and has demonstrated competency for setting a client's oxygen flow. (Authorized by  
K.S.A. 65-5109; implementing K.S.A. 65-5101; effective P-\_\_\_\_\_.)

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APPROVED

APPROVED

AUG 03 2021

SEP 17 2021

AUG 02 2021

DEPT. OF ADMINISTRATION ATTORNEY GENERAL

DIVISION OF THE BUDGET



28-51-118. HCBS. (a) Admission criteria. Each person that applies to provide HCBS shall have written policies and procedures that address admission criteria consistent with the requirements of this regulation.

(b) Scope of practice and training. Each licensee providing HCBS shall have written policies and procedures describing the appropriate scope of practice for each HCBS worker consistent with state regulations and federal regulations and guidelines for HCBS and the training required for each HCBS worker to provide the necessary HCBS to a patient.

(c) Competency. Each licensee providing HCBS shall ensure that each HCBS worker providing personal care demonstrates competency before providing HCBS to a patient without a supervisor being present and shall reevaluate each worker providing personal care on an annual basis in the following subject areas:

(1) Communication skills, with special focus on communicating with patients with a hearing deficit, dementia, or other special needs;

(2) observation, reporting, and documentation of patient status and the type of HCBS provided;

(3) basic infection control procedures;

(4) basic elements of body functioning and changes in body function or vital signs that shall be reported to the HCBS worker's supervisor;

(5) maintenance of a clean, safe, and healthy environment;

(6) recognizing emergencies and knowledge of the home health agency's emergency procedures;

(7) respecting the patient and the patient's privacy and property;

APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

APPROVED

AUG 21 2020

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL

(8) knowledge of the patient's bill of rights specified in K.A.R. 28-51-111;

(9) appropriate and safe techniques in personal hygiene and grooming; and

(10) appropriate use of any equipment needed for the provision of HCBS.

(d) Ongoing training. Each home health agency shall provide ongoing training to each HCBS worker. Training requirements and annual competencies shall be consistent with the HCBS that the licensee provides and shall be appropriate to the needs of the patients served. Successful completion of the training and annual competencies shall be documented in a training record for each HCBS worker.

(e) Supervision of HCBS workers. Each licensee providing HCBS shall ensure supervision of each HCBS worker as follows:

(1) Employ a supervisor for each HCBS worker who is available for questions at all times;

(2) provide on-site supervision of each HCBS worker at least every three months, including an assessment of client satisfaction of the HCBS provided and the HCBS worker's adherence to the plan of care; and

(3) evaluate each HCBS worker providing HCBS by the HCBS worker's supervisor during an on-site observation of each HCBS worker while providing HCBS at least every three months, including the following:

(A) Tasks performed;

(B) relationships with patients; and

(C) the HCBS worker's adherence to the patient's plan of care. (Authorized by K.S.A.

APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

APPROVED

AUG 21 2020

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL

65-5109; implementing K.S.A. 65-5104; effective P-\_\_\_\_\_.)

APPROVED

AUG 17 2020

DIVISION OF THE BUDGET

APPROVED

AUG 21 2020

DEPT. OF ADMINISTRATION

APPROVED

JUN 17 2021

ATTORNEY GENERAL